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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/605,314	09/22/2003	Wesley K. Eklund	71234-0077	2313
20915	7590	03/23/2005	EXAMINER	
MCGARRY BAIR PC 171 MONROE AVENUE, N.W. SUITE 600 GRAND RAPIDS, MI 49503			LUGO, CARLOS	
			ART UNIT	PAPER NUMBER
			3676	

DATE MAILED: 03/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/605,314

Applicant(s)

EKLUND ET AL.

Examiner

Carlos Lugo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 06 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12 and 13 is/are allowed.
- 6) ☒ Claim(s) 1-9 and 11 is/are rejected.
- 7) ☒ Claim(s) 10 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 January 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

1. This Office Action is in response to applicant's amendment filed on January 6, 2005.

#### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 1-8 and 11 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 3,883,164 to Galbreath et al (Galbreath '164) in view of US Pat No 4,014,572 to Binns.

Regarding claims 1 and 11, Galbreath '164 discloses a the latch assembly comprising a base plate (26) adapted to mount to the door; and a handle (29) rotatably mounted to the base plate for rotation between a closed position and an open position and having a locking flange (61).

A hook (38) is rotatably mounted to the base plate and operable coupled to the handle for rotation between a locked and an unlocked position as the handle is rotated between the closed and open positions.

The assembly further comprises a closed keeper (57) having a handle catch portion (62), wherein the handle locking flange (61) is received by the keeper handle catch portion (62) when the handle is in the closed position to maintain the handle in the closed position, and an unlatched position, wherein the handle locking flange (61) is release by the closed keeper handle catch portion (62), whereby the

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handle can rotate from the closed position to the open position without interference from the closed flange keeper.

The closed keeper further has a surface (66) that is adapted to contact a portion of the handle when the closed keeper is in the unlatched position and the handle is moved from the open position to the closed to move the closed keeper into the latched position (Col. 5 Lines 27-36).

However, Galbreath '164 fails to disclose that the closed keeper is mounted in the base plate. Galbreath '164 discloses that the closed keeper is mounted in a second plate (59).

Binns teaches that it is well known in the art to have an assembly wherein the handle (14) and a closed keeper (11) are mounted in the same base plate (13).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the handle and the closed keeper mounted in the same base plate, as taught by Binns, into a device as described by Galbreath '164, because the fact that the handle and the closed keeper are or not mounted in the same base plate is considered as a design consideration that will not affect the movement of the mechanism of the latch assembly.

As to claim 2, Binns teaches that the closed keeper (11) is rotatably mounted to the base plate.

As to claim 3, Galbreath '164 discloses that the closed keeper (57) is biased to the latched position.

As to claim 4, Galbreath '164 discloses that the closed keeper (57) has an axis of rotation (58).

As to claims 5 and 6, Galbreath '164 discloses a stop (above where 59 is pointing in Figure 1).

As to claim 7, Galbreath '164 discloses that the handle further has a retainer flange (48), and further comprising an open keeper (51) that has a handle catch portion (53 and 54). The open keeper (51) is mounted to the base plate (26) for movement between a retention position, wherein the handle retainer flange is received by the open keeper handle catch portion to retain the handle in the open position, and a release position, wherein the open keeper portion releases the handle retainer flange, handle catch whereby the handle can rotate from the open position to the closed position.

As to claim 8, Galbreath '164 discloses that the open keeper (51) is biased to the retention position.

4. **Claims 1-9 and 11 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 3,514,142 to Smith (Smith '142) in view of US Pat No 4,014,572 to Binns.

Regarding claims 1 and 11, Smith '142 discloses a the latch assembly comprising a base plate (51) adapted to mount to the door; and a handle (63) rotatably mounted to the base plate for rotation between a closed position and an open position and having a locking flange (115).

A hook (36) is rotatably mounted to the base plate and operable coupled to the handle for rotation between a locked and an unlocked position as the handle is rotated between the closed and open positions.

The assembly further comprises a closed keeper (110) having a handle catch portion (116), wherein the handle locking flange (115) is received by the keeper handle catch portion (116) when the handle is in the closed position to maintain the handle in the closed position, and an unlatched position, wherein the handle locking flange (115) is release by the closed keeper handle catch portion (116), whereby the handle can rotate from the closed position to the open position without interference from the closed flange keeper.

The closed keeper further has a surface (124) that is adapted to contact a portion of the handle when the closed keeper is in the unlatched position and the handle is moved from the open position to the closed to move the closed keeper into the latched position (Figure 9-11).

However, Smith '142 fails to disclose that the closed keeper is mounted in the base plate. Smith '142 discloses that the closed keeper is mounted in a second plate (113).

Binns teaches that it is well known in the art to have an assembly wherein the handle (14) and a closed keeper (11) are mounted in the same base plate (13).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the handle and the closed keeper mounted in the same base plate, as taught by Binns, into a device as described by Smith '142, because

the fact that the handle and the closed keeper are or not mounted in the same base plate is considered as a design consideration that will not affect the movement of the mechanism of the latch assembly.

As to claim 2, Binns teaches that the closed keeper (11) is rotatably mounted to the base plate.

As to claim 3, Smith '142 discloses that the closed keeper (110) is biased to the latched position.

As to claim 4, Smith '142 discloses that the closed keeper (110) has an axis of rotation (112).

As to claims 5 and 6, Smith '142 discloses a stop (123) to limit the movement of the closed keeper (110).

As to claim 7, Smith '142 discloses that the handle further has a retainer flange (69), and the assembly further comprises an open keeper (90) that has a handle catch portion (92). The open keeper (90) is mounted to the base plate (51) for movement between a retention position, wherein the handle retainer flange is received by the open keeper handle catch portion to retain the handle in the open position, and a release position, wherein the open keeper portion releases the handle retainer flange, handle catch whereby the handle can rotate from the open position to the closed position.

As to claim 8, Smith '142 discloses that the open keeper (90) is biased to the retention position.



As to claim 9, Smith '142 discloses that the open keeper (90) biased by a spring (97).

5. **Claim 9 is rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 3,883,164 to Galbreath et al (Galbreath '164) in view of US Pat No 4,014,572 to Binns as applied to claim 1 above, and further in view of US Pat No 3,514,142 to Smith (Smith '142).

Galbreath '164, as modified by Binns, fails to disclose that the open keeper is spring biased to the retention position.

Smith '142 teaches that it is well known in the art to have the open keeper (90) biased by a spring (97).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a spring, as taught by Smith '142, into a device as described by Galbreath '164, as modified by Binns, in order to bias the open keeper.

#### ***Allowable Subject Matter***

6. **Claims 12 and 13 are allowed.**
7. **Claim 10 is objected** to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### **Reasons For Allowance**

8. The following is an examiner's statement of reasons for allowance:



Claim 12 is allowable over the prior art of record and claim 10 presents allowable subject matter over the prior art of record because the teachings of the references taken as a whole do not teach or render obvious the combination set forth, including that the base plate comprises a tab extending laterally therefrom and the closed keeper further comprises a first stop for limiting the movement of the closed keeper to the unlatched position and a second stop for limiting the movement of the closed keeper to the latched position.

Smith '142 and Binns disclose that the base plate includes a tab (72 and 33 respectively). However, Neither Smith '142, Binns or even Galbreath '164 discloses that the closed keeper further comprises a first stop for limiting the movement of the closed keeper to the unlatched position and a second stop for limiting the movement of the closed keeper to the latched position. Also, Smith '142 tab (72) is limiting the movement of the handle and Binns tab (33) is for secure the closed keeper in a lock position with or without a locking means.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

#### ***Response to Arguments***

9. Applicant's arguments filed on January 6, 2005 have been fully considered but they are not persuasive.

Regarding applicant's arguments that there is no motivation to combine the teachings of Binns, of having one plate, into a device as disclosed by Galbreath (Page 11 Line 8), the fact that there is one big plate instead of having two separate plates to accommodate the members is considered as a design consideration within the art. Furthermore, the fact that one plate accommodates the latching members does not give any structural meaning to the performance of the latch mechanism. Therefore, the rejection is maintained.

As to applicant's arguments that the Galbreath, as modified by Binns, fails to disclose that a surface of the closed keeper is adapted to contact a portion of the handle when the closed keeper is in the unlatched position and the handle is moved from the open to the closed position (Page 11 Line 16), Galbreath discloses that the closed keeper further has a surface (66) that is adapted to contact a portion of the handle when the closed keeper is in the unlatched position and the handle is moved from the open position to the closed to move the closed keeper into the latched position (Col. 5 Lines 27-36).

As to applicant's arguments that that there is no motivation to combine the teachings of Binns, of having one plate, into a device as disclosed by Smith (Page 12 Line 18), see arguments with respect to Galbreath mentioned before.

As to applicant's arguments that the Smith, as modified by Binns, fails to disclose that a surface of the closed keeper is adapted to contact a portion of the handle when the closed keeper is in the unlatched position and the handle is moved from the open to the closed position (Page 13 Line 1), Smith illustrates in Figures 9-11

that the closed keeper (110) further has a surface (124) that is adapted to contact a portion of the handle (at 115) when the closed keeper is in the unlatched position and the handle is moved from the open position to the closed to move the closed keeper into the latched position.

### ***Conclusion***

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos Lugo whose telephone number is 703-305-9747 or 571-272-7058 (after March 31, 2005). The examiner can normally be reached on 9-6pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on 703-308-2686. The fax phone

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number for the organization where this application or proceeding is assigned is  
(703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or  
proceeding should be directed to the receptionist whose telephone number is 703-  
306-5771.

C.L.

Carlos Lugo  
AU 3676

March 16, 2005

A handwritten signature in black ink, reading "Daniel P. Stodola". The signature is fluid and cursive, with a large initial "D" and "S".

DANIEL P. STODOLA  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600